

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LEAHY. Mr. President, I believe I also have an hour under another part of the unanimous consent agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. I will withhold that and yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

#### EXECUTIVE SESSION—Continued

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, the Senator from Vermont has used one part of his time under the unanimous consent agreement, but I understand I have other time under the agreement. How much time is available to the Senator from Vermont?

The PRESIDING OFFICER. On the Teilborg nomination, 1 hour is available to the Senator from Vermont.

Mr. KYL. Mr. President, I suggest to my colleague that we complete the time on the three pending nominees. I could yield back the time that remains on them. Then I will be happy to allow Senator LEAHY to conclude his remarks on the time he has under the Teilborg nomination, and then I can comment with respect to that nomination.

I yield back all time remaining on the three judicial nominations.

#### NOMINATION OF JAMES A. TEILBORG, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The assistant legislative clerk read the nomination of James A. Teilborg, of Arizona, to be U.S. District Judge for the District of Arizona.

Mr. LEAHY. Mr. President, I understand that under the prior unanimous consent agreement the distinguished Senator from Utah, Mr. HATCH; the Senator from Arizona, Mr. KYL; and I each have 1 hour for the Teilborg nomination, and the distinguished Senator from Iowa, Mr. HARKIN, has up to 3 hours, unless time is yielded back, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be able to yield 5 minutes to the distinguished Senator from North Carolina, Mr. ED-

WARDS, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, I am pleased that today we are discussing some of the vacancies that exist in the Federal judiciary. There was a discussion this morning about an issue that is near and dear to my heart and important to the folks in North Carolina, which is the vacancies on the U.S. Court of Appeals for the Fourth Circuit.

Senator ROBB came down and discussed Judge Gregory's nomination. Chairman HATCH responded. I would like to say a few words about that discussion.

There are 15 authorized judgeships on the Fourth Circuit Court of Appeals. There are presently only 10 active judges on that court. By tradition, my State of North Carolina, which is the largest, most populous State in the Fourth Circuit, is allocated three of those judgeships. Out of those 10 judgeships—presently active judges on the Fourth Circuit—how many come from North Carolina? None.

We are the only State in the nation that is not represented on a Federal circuit court, along with Hawaii. We are the largest State in the circuit. We have the largest population in the circuit, and we don't have a judge representing our State on this court. That has been true since Judge Ervin died in 1999.

The people of North Carolina, who have cases regularly heard in the Fourth Circuit, have no one there representing them. In addition, to the extent the court is regularly interpreting matters of North Carolina law, which it is required to do in diversity cases, there is no judge in this court who is trained in North Carolina law. Now, this Congress recognized some time ago how important it was for States to be represented on their circuit courts of appeal by enacting a law—in fact, requiring that States have a judge on their Federal circuit court of appeals. We have none. As I indicated before, along with Hawaii, we are the only two States in the country that are not represented on our circuit court of appeals.

Now, Chairman HATCH had some discussion this morning about Judge Gregory and his nomination to the Fourth Circuit in the State of Virginia, and the fact that that was a slot traditionally allocated to my State of North Carolina.

My question to Chairman HATCH is: What are we doing about the nomination of Judge Wynn? Judge Wynn is a very well-respected, very moderate, centrist jurist from North Carolina, who has been nominated for over a year from my State to fill a vacancy

that is traditionally allocated to North Carolina. There is no question that Judge Wynn would be approved by this body if he ever got a hearing and a vote on the floor.

Unfortunately, that has not happened. It is easy to understand why the Clinton administration believed they needed to take some action. That action has turned out to be to nominate Judge Gregory. I have to admit it was somewhat frustrating to me, representing North Carolina, to have Judge Gregory nominated for the slot he was nominated for because it was traditionally allocated to North Carolina. But, I do support Judge Gregory's nomination.

In addition to having no judge from North Carolina being on the Fourth Circuit Court of Appeals, our court does not presently have, nor has it ever had, an African American judge. The Fourth Circuit Court of Appeals has the largest African American population in the country and does not now have, nor has it ever had, an African American judge. Obviously, there is a huge part of our population in the Fourth Circuit that has never been represented on this court. They are entitled to representation by a well-qualified judge.

In fact, Judge Wynn who was nominated over a year ago—from my State that has no judge on the Fourth Circuit—is also an African American judge. I urge Chairman HATCH to grant Judge Wynn a hearing and to push forward his vote on the floor of this Senate where he will be approved.

The bottom line is that Judge Gregory is a well-respected and well-qualified African American lawyer from the State of Virginia who also deserves a hearing, and also deserves a vote in this body this year.

The argument that is made—and Chairman HATCH made it this morning—is we only need 10 judges on the Fourth Circuit, we don't really need the 15 that Congress in fact has authorized. The reason is that the chief judge of that circuit, Judge Wilkinson, says they do not need any more judges, they are operating perfectly efficiently.

I point out several things.

No. 1, the Fourth Circuit issues more one-sentence opinions than any Federal circuit court in the country. Litigants come before it and make their case. Instead of getting a reasoned decision about why they won or lost their case, they get one sentence. What does that tell them about how much attention in fact is being paid to their case?

This same argument was made when there were 13 judges on the court. Now we are down to 10.

Since when do we let the chief judge of the circuit court decide how many judges go on the court? That is a function we in Congress have responsibility for—not him.

You can certainly make an argument that this is a partisan decision that the

chief judge has made—that he likes the present composition of the court. He was a Republican-nominated judge.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EDWARDS. I ask unanimous consent for another 3 minutes.

Mr. LEAHY. Mr. President, I yield another 3 minutes without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. EDWARDS. Mr. President, here we have the chief judge, who is a Republican-nominated judge, and a court that now has a majority of Republican judges. You can certainly make the argument that he likes the composition of the court the way it is; he never wants that to be changed.

That is so fundamentally wrong and so fundamentally different from the way our Constitution provides. We should be nominating judges. Whether it is a Democratic or a Republican administration, it shouldn't make any difference in nominating well-qualified judges. This body should act on the qualification of those men and women to serve on the court, not based upon the Republican or Democratic composition of the court. It is just that simple. This should be totally nonpartisan.

My State has no one representing them on the Fourth Circuit. There is not, nor has there ever been, an African American judge on this court.

The simple bottom line is that we have the responsibility of deciding how many judges should be authorized for that court. We have made that decision—15. It is now down to 10. Of those 10, North Carolina has none. The people of North Carolina are entitled to be represented on this court.

In addition to that, we should deal with the issue that there has never been an African American judge on this court.

We presently have pending the nomination of two well-respected and very well qualified African American jurists.

This is what I would say to the Chairman HATCH. Let us have a hearing on Judge Wynn. Let Judge Wynn have a vote on the floor of this Senate, and let the people of North Carolina have what, by law enacted by this body, they are entitled to, which is a judge representing them on their Federal court of appeals so that when my people go to the Fourth Circuit Court of Appeals to have their case heard, they have at least one judge representing them on that court. Aren't they entitled to that?

I yield the floor.

Mr. LEAHY. Mr. President, I commend the distinguished Senator from North Carolina for his comments. Senator EDWARDS has been a friend since he came to this body. I have, at the risk of embarrassing him, stated on a

number of occasions on this floor that the Senate was enhanced by his presence here. As a lawyer, I must say that having him here because of his own experience as one of the most outstanding and most recognized trial lawyers in the country, to say nothing about his own State. I think Senators on both sides of the aisle should listen to what he said.

He is not a Senator who speaks in the abstract and who simply reads a statement on this. This is a Senator who has spent time in the courts of his State and of the region. He has had active practice in both State courts and Federal courts. He understands the judicial system.

He has argued cases at all levels. He has worked with lawyers who have been on his side of an issue and opposed to him. He knows, as does any lawyer who practices law, that no matter how much you might try a case at the trial level, at some point, especially if the stakes are high, that case is going to go up on appeal. It is going to go up on appeal whether you are the plaintiff or the defendant. Whoever loses that case, if it is of significance, will take it up on appeal.

I recall the statements made in court when I was trying cases. The judge in chambers would say: OK, we will take it to the jury and let justice be done. Usually the person who had the weaker case said: If that is the case, I will appeal, if justice is done.

But the fact of matter is cases become more and more complex and more and more significant to the litigants and to the issues of law. They go up on appeal, and you ought to have a good appellate court.

I commend the Senator for what he has said. I hope we will listen to what is needed in that appellate court.

We should also note, I suggest, that there is going to be a significant debate tonight in Boston between the two candidates of our two great parties—the Republican and Democratic Parties. Both parties have nominated those we consider to be our best choices. Obviously, I strongly support my friend of over 20 years, AL GORE. But I also know that the Republican Party has nominated a very distinguished Governor, George W. Bush.

I mention this because Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. He gave a speech awhile back and criticized what has happened in the Senate where confirmations are held up not because somebody votes down a nominee but because they cannot ever get a vote. Governor Bush said: You have the nominee. Hold the hearing. Then, within 60 days, vote them up or vote them down. Don't leave them in limbo.

Frankly, that is what we are paid to do in this body. We are paid to vote either yes or no—not vote maybe.

When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are not only voting "maybe" but we are doing a terrible disservice to the man or woman to whom we do this. They have to put their life on hold. They do not know what is going to happen: Are they going to be confirmed, or not? It is not like when any one of us runs for election; we know that on a certain day the election occurs. We either win or we lose. But we know that on that Tuesday, we are going to know our fate. We won or we lost.

These people come here and they never know what may happen. They don't know whether they will have a hearing. And if they have a hearing, they don't know if there will be a vote in committee. And if there is a vote in committee, they don't know whether they will come on the floor. And if they come on the floor, they don't know if they will have a vote because one person hiding in the Cloakroom will say: Don't allow it to come to a vote yet. So they may have 99 Senators voting for them but somebody mysteriously in the background says "Don't vote," and they don't vote.

Helene White of the U.S. Court of Appeals for the Sixth Circuit has been pending for 1,360 days. Governor Bush said we ought to have a vote up or down within 60 days. Let's have a vote on Helene White. She has been waiting not 60 days, not 600 days, but 1,360 days.

Kathleen McCree Lewis, who has been nominated for the U.S. Court of Appeals for the Sixth Circuit, an outstanding African American woman, who has one of highest ratings of anybody we have ever seen come before the Senate, has been waiting for 370 days. Not the 60 days we talked about, but more than six times the 60 days. Bonnie Campbell, for the U.S. Court of Appeals for the Eighth Circuit, has been spending for more than 215 days.

We are debating bringing up the Violence Against Women Act which has been stalled. The Violence Against Women Act has expired. Distinguished Senators on both sides of the aisle are working to bring it up and we cannot bring it up for a vote.

I see the distinguished Senator from Delaware and the distinguished Senator from Kansas, both of whom support it on the floor, and we cannot get that up for a vote.

We also can't get Bonnie Campbell up, even though she is the Director of the Violence Against Women Office. She supported, worked for and administered the Violence Against Women Act, an act that has seen a dramatic decrease in violence against women.

We ought to be standing and applauding Ms. Campbell. She is somebody who shows by her own experience that she can do the things necessary to bring down this scourge of violence against women in our country. Now that she

has gone through the vetting process, and found out that she is one of the most qualified people to be a judge of anyone confirmed in the last 20 years, Republican or Democrat, we ought to at least let her have a vote instead of holding her in limbo.

Elena Kagan for the U.S. Court of Appeals for the District of Columbia has been pending for more than 480 days without a vote; Lynette Norton, for the U.S. District Court for the Western District of Pennsylvania, has been pending for more than 890 days; Patricia Coan, for the U.S. District Court for the District of Colorado, has been pending for more than 500 days; Dolly Gee, for the U.S. District Court for the Central District of California has been pending for more than 495 days; Rhonda C. Fields, for the U.S. District Court for the District of Columbia, has been pending for 325 days; Linda Riegler, for the U.S. District Court of Nevada, has been pending for more than 165 days.

Let them have a vote. These women are outstanding. They have demonstrated more than most people who get confirmed in this body, Republican or Democrat, how well qualified they are. At least let them have a vote. If people want to vote against them, vote against them.

I will state for the record that I will vote for every one of them. In checking with our side of the aisle, every single Democrat Senator will vote for every one of these women.

President Clinton, in remarks before the Michigan Bar Association, recently spoke about the Senate's failure to act upon his judicial nominees, noting his nominees have received more top American Bar Association ratings than those of any President in 40 years. President Clinton, to his credit, has nominated people who have received higher ratings than any President, Democrat or Republican, in 40 years and they still get held up. He said:

These people are highly qualified, which leads to only one conclusion, that the appointments process has been politicized in the hope of getting appointees ultimately to the bench who will be more political. That is wrong. It is a denial of justice.

President Clinton is right. We should move forward with these nominees. Let them have a vote. Don't do this in the dark of the night holding people up.

We are going to have four nominees, three from Arizona which has a desperate situation, where they need Federal judges. My friend from Arizona, Senator KYL, has pointed out, quite rightly, that cases cannot be heard, several cases cannot be heard. He has had experiences as a civil lawyer. He knows how difficult that is.

I say as a former prosecutor, when that happens, the criminal cases can't be heard because you don't have enough people on the bench. When that happens, the prosecutor has to start

plea bargaining down. He or she has to either get a lighter sentence or has to start dropping charges all over the place because they know they can't get a trial because the judges aren't there.

If we are going to be tough on law and order, we have to have the judges there. We cannot just say we are against crime. I am willing to concede that all 100 of us are against crime. But if we are going to fight crime, we have to have the men and women there to do it: the prosecutors, the defense attorneys, and the judges.

If we will move those judges through, I will vote for every one of them. But I also point out that they can move through very rapidly, all the judges from the time they were nominated, to the hearings, to the floor. A lot of the other judges discussed today are judicial nominees who have waited and waited and waited and waited and cannot get a vote.

It is not too late in the session to move on these nominations. We know that we can make quick progress when we want to do so. The group of nominees being considered tonight include nominations received on a Friday, who had a hearing the next Wednesday and were reported that Thursday, all within a week. In addition, there is the example of a hearing held last month by the Government Affairs Committee on two District of Columbia Superior Court judges, one who was nominated on May 1 and the other who was nominated on June 26. Another example of the ability of the Senate to act is the September 8 confirmation of James E. Baker to the U.S. Court of Appeals for the Armed Forces. In addition, there is the examples of Timothy Lewis who was confirmed in waning days of the 1992 session, the last year of a Republican presidential term with a Democratic majority in the Senate. Judge Lewis was confirmed to the Third Circuit on October 8, having only been nominated on September 17 of that year.

Of course, the Republican candidate for the presidency has said that nominations should be acted upon within 60 days. Of the 42 judicial nominations currently pending, 37 have been pending from 60 days to 4 years without final action.

Let us compare the lack of action this year to what a Democratic majority in the Senate accomplished in 1992 during the last year of a Republican presidential term. The Senate confirmed 11 Court of Appeals nominees during that Republican President's last year in office and a total of 66 judges for that year. This year the Senate is will not reach anywhere near 66 confirmations, not 60, not 50, not even 40. In 1992, the Committee held 15 hearings—twice as many as this Committee has found time to hold this year. In the last 10 weeks of the 1992 session, the Committee held four hearings and all

of the nominees who had hearings then were confirmed before adjournment. In the last 10 weeks of the 1992 session, we confirmed 32 judicial nominations. In the last 10 weeks of this year we will be holding no hearings and confirming only four District Court nominees.

We still have pending without a hearing qualified nominees like Judge Helene White of Michigan. She has been held hostage for over 45 months without a hearing. She is the record holder for a judicial nominee who has had to wait the longest for a hearing and her wait continues without explanation to this day.

We still have pending before the Committee, the nomination of Bonnie Campbell to the Eighth Circuit. Ms Campbell had her hearing last May, but the Committee refuses to consider her nomination, vote her up or vote her down. Instead, there is the equivalent of an anonymous and unexplained secret hold. Bonnie Campbell is a distinguished lawyer, public servant and law enforcement officer. She was the Attorney General for the State of Iowa and the Director of the Violence Against Women Office at the United States Department of Justice. And she enjoys the support of both of her home State Senators, Senator HARKIN and Senator GRASSLEY. I understand and share Senator HARKIN's frustration and believe that the Senate's failure to act on this highly qualified nominee is without justification.

We still have pending without a hearing the nomination of Roger Gregory of Virginia and Judge James Wynn of North Carolina to the Fourth Circuit. Were either of these highly-qualified jurists confirmed by the Senate, we would be finally acting to allow a qualified African American to sit on that Court for the first time. Fifty years has passed since the confirmation of Judge Hastie to the Third Circuit and still there has never been an African-American on the Fourth Circuit in the history of that Circuit. The nomination of Judge James A. Beatty, Jr., was previously sent to us by President Clinton in 1995. That nomination was never considered by the Senate Judiciary Committee or the Senate and was returned to President Clinton without action at the end of 1998. It is time for the Senate to act on a qualified African-American nominee to the Fourth Circuit. It is also time for the Senate to act on the nomination of Kathleen McCree Lewis to be the first African American woman to serve on the Sixth Circuit. President Clinton spoke powerfully about these matters at the NAACP Convention. We should respond not be misunderstanding or mischaracterizing what he said but, instead, by taking action on these well-qualified nominees.

I commend Senators ROBB and WARNER, along with Representatives BOBBY SCOTT and JIM CLYBURN, for speaking

out last Wednesday to draw attention to the Senate's failure to act upon the nomination of Roger Gregory to fill an emergency vacancy in the Fourth Circuit. As Senator ROBB pointed out, Mr. Gregory has been nominated to fill a vacancy that has existed on the Fourth Circuit for 10 years. While the Court is authorized to have 15 judges, it is operating with only 10 judges today. That means the Court has one-third of its positions vacant. Beth Nolan, the Counsel to the President, recently wrote in the *Wall Street Journal*:

[T]he seat for which Mr. Gregory was nominated has not been filed before, nor allocated to any particular state in the Fourth Circuit. Moreover, Roger Gregory has the strong support of both of his home-state senators (who were indeed consulted prior to nomination). Democratic Sen. Chuck Robb recommended Mr. Gregory to the president and has been working tirelessly on Mr. Gregory's behalf. Republican Sen. John Warner has joined Sen. Robb in requesting that Sen. Hatch give Mr. Gregory a hearing.

It is past time for the Judiciary Committee to consider Mr. Gregory's nomination.

We still have pending before the Committee the nomination of Enrique Moreno to the Fifth Circuit. He is the latest in a succession of outstanding Hispanic nominees by President Clinton to that Court, but he too is not being considered by the Committee or the Senate. Mr. Moreno succeeded to the nomination of Jorge Rangel on which the Senate refused to act last Congress. These are well-qualified nominees who will add to the capabilities and diversity of those courts. In fact, the Chief Judge of the Fifth Circuit declared that a judicial emergency exists on that court, caused by the number of judicial vacancies, the lack of Senate action on pending nominations, and the overwhelming workload.

I remain vigilant regarding the Senate's treatment of nominees who are women or minorities. I have said that I do not regard the Chairman as a biased person. I have also been outspoken in my concern about the manner in which we are failing to consider qualified minority and women nominees over the last several years. From Margaret Morrow, Margaret McKeown and Sonia Sotomayor, through Richard Paez and Marsha Berzon, and including Judge James Beatty, Jr., Judge James Wynn, Roger Gregory, Enrique Moreno and all the other qualified women and minority nominees who have been delayed and opposed over the last several years, I have spoken out.

The Senate will never remove the blot that occurred last October when the Republican Senators emerged from a Republican Caucus to vote lockstep against Justice Ronnie White to be a Federal District Court Judge in Missouri. At a Missouri Bar Association forum last week, Justice White expressed concern that the rejection of his nominations to a federal judgeship

will have a "chilling effect" on the desire of young African American lawyers to seek to enter the judiciary. The Senate took the wrong action last October when the Republican caucus rejected Justice White's nomination.

At our last Executive Business Session in the Judiciary Committee, the Chairman used some of Senator BIDEN's remarks from a nominations hearing last November to make the point that he is neither racist nor sexist. And I agree. I do not believe that the Chairman is himself for or against a particular nominee based purely on race or gender, though I do understand that the Committee does keep track of such numbers for statistical purposes. But to paraphrase our former Chairman from later on in that Executive Business Session, it would be better for the current Chairman to explain to those of us on this side of the aisle and the public at large why he is not moving on particular nominations. I understand there may be outstanding FBI investigations that he is not at liberty to discuss, but I do not believe any such impediments exist that would prevent the Chairman from telling us why Helene White, Roger Gregory, and Enrique Moreno have not yet had a hearing.

There continue to be multiple vacancies on the Third, Fourth, Fifth, Sixth, Ninth, Tenth and District of Columbia Circuits. With 23 current vacancies, our appellate courts have nearly half of the total judicial emergency vacancies in the federal court system. I note that the vacancy rate for our Courts of Appeals is more than 11 percent nationwide. If we were to take into account the additional appellate judgeships included in the Hatch-Leahy Federal Judgeship Act of 2000, a bill that was requested by the Judicial Conference to handle their increased workloads, the vacancy rate would be 16 percent.

Also at our last executive business session, my friend from Utah, the distinguished chairman of the Judiciary Committee, said there is and has been no judicial vacancy crisis. That is a bold statement considering there are 67 current vacancies in courts and emergency situations, including the Fifth Circuit. If we pass the bill that has been requested by the nonpartisan judicial conference, we would have another 7 or more judicial vacancies, so we would have over 150 judicial vacancies.

The chairman went on to say that since 363 senior judges are now serving in the Federal judiciary the true number of vacancies is "less than zero." While it is true that there are 363 senior judges now serving, it is inaccurate to say that the true number of vacancies is less than zero.

I commend the large number of senior judges for coming in to help out and fill in. Some of them are well into their eighties. But that is not the way it should be. Surely, if we didn't have

these senior judges, the courts would collapse under the weight of their own caseloads and the extended and extensive vacancies.

What we have is a situation where selfless public servants have made a conscious decision to hold off on the rewards of retiring from a job well done to help administer fair and proper justice in our country. Our senior judges should be thanked for their diligent work and dedication. Still, their service does not mean we have fewer vacancies. Indeed, the Judicial Conference has recommended 70 new judgeships in addition to the already existing 67 vacancies.

Let's not say the only way that can happen is if people, no matter how old they are, say: I will never retire; I will just keep on showing up and do the best I can. It is the lifeblood of our judiciary to have new judges come in.

I regret that the last confirmation hearing for Federal judges held by the Judiciary Committee was in July. In fact, that was the last time the Judiciary Committee reported any nominees to the full Senate. Throughout August, September, and now the first week in October, there have been no additional hearings held, or even noticed; no executive business meetings have included any judicial nominees on the agenda.

I mention that because in 1992, the last year of the Bush administration, we had a Republican President and a Democratic majority in the Senate. We held three confirmation hearings in August and September. We continued to work to confirm judges.

How late did we work, even though we have the so-called Thurmond rule which cuts off judicial nominations after about midyear? Do you know how long the Democrat-controlled Senate was confirming judges for a Republican President? Up to and including the very last day of the session; not up to and including 6 months before the session ended.

I know there is some frustration. Some Senators have objected to Senate committees continuing to meet on other matters while the Senate is in session. That is partly because the matter is so acute with regard to the numerous vacancies in our court of appeals and the qualified women and men who have been nominated and stalled.

The chairman says, and he holds the banner for his party, that Democrats have no grounds to complain. I remind the Senate of the hoops that Richard Paez and Marsha Berzon had to jump through in order to get a vote, including the extraordinary step of overcoming a motion to postpone indefinitely the vote on Marsha Berzon.

So I hope we will continue to meet our responsibility to all nominees—men, women, and minorities. As long as the Senate is in session, I am going to urge action. Highly qualified nominees should not be delayed. The Senate

should join with the President to confirm well-qualified, diverse, and fair-minded nominees to fulfill the needs of the Federal courts around the country.

I see my friend from Arizona on the floor. I have spoken somewhat longer than I suggested to him that I would. I apologize for that, but I hope he will take some comfort from the fact that as I said at the beginning of my talk that I would vote for the nominees from his State, including one who has been a long-time friend of his. I am going to be urging Members on this side to do so. I can say with some certainty, all four will be confirmed.

Mr. President, I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I appreciate those remarks of the distinguished ranking member of the Judiciary Committee. It is probably a good segue for me to try to explain what has been going on here because colleagues who may be watching or people who are not in the Senate may be wondering what all of the discussion has been about when there are four specific nominees who President Clinton has nominated for Federal district judgeships and they are ostensibly being considered by the Senate and I have heard no discussion about the four. So I am going to discuss the four very briefly.

The problem, as you have heard, is that many on the other side of the aisle are unhappy with the fact that other nominees have not been considered this year. You have heard all the discussion about that. You have heard Senator HATCH on our side explain why that is so. But there has been great displeasure on the other side because, in their view, not all the nominees they would have liked to have considered were considered.

The four nominees who are before us today are the only four the Senate can consider. They are the only nominees who have gone all the way through the process from nomination, ABA clearance, FBI clearance, hearing before the Judiciary Committee, and then the Judiciary Committee having acted upon them to send them to the floor of the Senate. These are the only four on whom the Senate can act. I am pleased that, today, we will have the opportunity to do that.

All four of these nominees were pending in July. The majority leader made a request of the minority to consider the four nominees. That request was denied, however. So these four nominees had to be held over the August recess. Obviously, on our side we would have much preferred that the four confirmations could have occurred because of the need to fill these vacancies for the District in Arizona—which I will refer to in just a moment—but to which Senator LEAHY referred. He acknowledges we have a significant need

in Arizona to fill these positions. But there was objection on his side to their consideration.

So when we came back in September, the majority leader again asked the minority leader for concurrence to bring these four nominees to the floor for a vote. Again, that was denied by the Democratic side.

People might ask: Why would Democrats be objecting to President Clinton's nominees? The reason has nothing to do with their merits. As Senator LEAHY pointed out, undoubtedly all four of these nominees will be confirmed because they are all four very well qualified. The reason has to do with the politics of this Chamber. Because some Democrats were concerned that not all of their people had been yet considered, they were going to hold up nominees they perceived to be important to me and to Senator FITZGERALD from Illinois, the home State of the four nominees here before us.

But the fact is, these people are needed to serve the people of the United States of America. They were nominees of President Clinton. So the bottom line is that it is now time for the nominations to be considered by the full Senate. We need to get over the politics. We need to get on with doing the people's business and confirm these four well-qualified individuals. I am pleased that both the majority and minority have now made that possible and that in a few minutes we will be able to vote for all of these candidates.

The first three candidates should have been discussed this morning. I know they were not. Instead, we had the discussion that you have heard. But those four nominees, as Senator HATCH mentioned, are Michael Reagan from Illinois, about whom you will hear a little more in a moment from Senator FITZGERALD; Mary Murguia, a very well qualified assistant U.S. attorney from Arizona who, by the way, if confirmed, will be the first Latina to serve as a Federal district court judge from Arizona; and the Honorable Susan Bolton, a very distinguished Superior Court judge in Arizona. All three of those candidates I deem to be well qualified. I chaired the hearing. I can certainly attest to the fact that the two from Arizona have the highest qualifications.

That leaves the fourth who is being considered separately here for reasons I will discuss in just a moment, but he is James Teilborg. Since I think it is appropriate when we are going to vote on somebody to actually have a little discussion about the individual, I am pleased to present a couple of minutes on his background here.

He was born and raised on a farm in southern Colorado and was State President of the Colorado Future Farmers of America. He married his wife, Connie, 37 years ago. They have two sons, Andy and Jay, and three granddaughters.

He and I attended the University of Arizona College of Law beginning in 1964. That is where I first met Jim Teilborg. I have known him ever since, and we have been close friends. So I can attest not only to his qualifications as a fine lawyer but also as a fine individual. He served in active duty U.S. Air Force to attend Navigator School. He is a retired colonel in the United States Air Force Reserve after 31 years in the National Guard and Reserve service. He was a member of the National Guard for 7 years, a navigator on the C-97 and KC-97 aircraft and, by the way, has been 23 years admissions counselor for the U.S. Air Force Academy. I would also note for the entire time I have been with the U.S. Congress, Jim Teilborg has chaired my service academy committee, a huge job of interviewing all the individuals who would like to attend one of our military service academies: interviewing them, making recommendations to me, and then for me to the academies. As a result of his exemplary service, I must say we have a much higher than average rate of acceptance by the service academies—because of Jim Teilborg's fine service.

He was a founder of the law firm of Teilborg, Sanders & Parks, the 12th largest law firm in Arizona. His practice focused on the areas of aviation, professional negligence, product liability, and complex tort litigation.

The Presiding Officer will appreciate, as a pilot himself, that, of course, Jim Teilborg is an accomplished pilot as well.

He is a 33-year veteran trial lawyer. He was President of the Maricopa County Bar Association, and was a member of the board of directors. He was the lawyer representative to the Ninth Circuit Judicial Conference, a distinguished position for a member of the bar, and has served as chairman of the Maricopa County Bar Association Medical/Legal Liaison Committee, and also served as chairman of the Special State Bar Disciplinary Administrative Defense Counsel.

He is a Member of the International Association of Defense Counsel board of directors and was its president in 1981; and, a very prestigious honor, a fellow of the American College of Trial Lawyers. This is the pinnacle for anybody who really wants to call himself a trial lawyer. In the latest edition of "The Best Lawyers of America," of course, he is included.

Jim Teilborg is one of those rare individuals who has practiced law for all of this time, made no enemies that I know of, but a lot of friends in the practice of law as a very competent litigator, a fine individual, and one who, as we found when we interviewed people in Arizona about his potential nomination, had unanimous support among judges and lawyers for service on the Federal district court.

I cannot think of anyone who would be more suited for the position because of his background, because of his judicial temperament, and because of his philosophy of always treating people fairly and his love for the law. It is personally a great honor for me and a pleasure to recommend James Teilborg to my colleagues.

That is probably the last you will hear about Jim Teilborg. Nobody is going to argue against him as an individual, I am sure. Of course, none has so far. I am hopeful that the political disagreement we have had over other nominees will not spill over into a negative vote on Jim Teilborg.

There is only one reason he has been set apart from the other nominees, and that is that he happens to be a Republican. Of course, I have supported nearly 97 percent of President Clinton's nominees during the time I have been in the Senate, and I daresay virtually all of them have been Democrats. One cannot base a vote on partisan reasons in this body.

I was very pleased to hear Senator LEAHY say he would urge the support for Jim Teilborg, as well as committing that support himself. While we on both sides of the aisle have voted against candidates for reasons having to do with the merits of that individual candidate, I do not know of any time I have seen a colleague vote against a nominee in protest of something someone else had done. That would be wrong. A protest vote having nothing to do with the individual would be wrong.

If the Senator from Vermont will still stay on the floor one more moment, I will quote him because I want him to know how much I agree with this important statement of his.

He said:

We should be the conscience of the Nation. On some occasions, we have been, but we tarnish the conscience of this great Nation if we establish the precedents of partisanship and rancor that go against all precedents and set the Senate on a course of meanness and smallness.

The Senator from Vermont was, I think, very accurate not only in what he predicted would be the consequence of the precedent we would set if we acted in that degree of smallness, but also I think expressed the view all of us share that our decisions should be based upon the merits, however we see them—maybe differently—but never voting on an individual because of the actions of someone else, to make a protest about some other point.

I appreciate his comments, and I commend to all of his colleagues the statement he has made here with respect to Jim Teilborg.

Mr. LEAHY. Will the Senator yield?

Mr. KYL. I will be very happy to yield.

Mr. LEAHY. I appreciate what my friend from Arizona said. And he is my

friend. It has been my experience on the committee, even on issues that start out appearing to be partisan, that the Senator from Arizona has worked hard to remove that sense of partisanship. He and I have joined together on a number of pieces of legislation. I do not think he would object to the description as a conservative Republican and myself as a liberal Democrat, but we have both been pragmatic Senators in getting some very good pieces of legislation through.

I mention that because he and I may well share a belief that there have been some times this year when it has become too partisan. I hope after the elections, no matter who is elected President and no matter what the numbers are in the House and the Senate, that a number of Senators who have had the experience of working together across the aisle will start off the year trying to find pieces of legislation we can do that will demonstrate to the country there are many Members of good will in both parties who do want what is best for this country. There will be issues, of course, where there are distinct party differences, but there are so many issues where there is far more unity. I hope we can do that.

I thank the Senator for his kind words. I yield the floor.

Mr. KYL. Mr. President, I thank the Senator. I will conclude. Some of the best things we have done have been in a bipartisan way—some of the things Senator LEAHY and Senator HATCH have worked on in particular, things that Senator FEINSTEIN and I have worked on in particular. I certainly look forward to getting together with Senator LEAHY after the election to see how we begin next year, assuming I am returned to this body.

I conclude with a quick comment about the need to fill this position in Arizona.

In 1999, Congress created nine new Federal district court judgeships—four for Florida, two for Nevada, and three for Arizona. The Nevada positions and three of four in Florida have been confirmed, but none has been confirmed yet for Arizona. That is why this is such an important matter as we conclude our business this year.

These nominees are needed to handle the ever-increasing caseload in Arizona, and here is an illustration of that caseload.

Our criminal felony caseload has increased 60 percent in the last 3 years. The district of Arizona ranks second in total weighted filings for a judge among the Nation's 94 districts, by the way, twice the national average—901 compared to the national average of 472. We are fourth in weighted felony filings per judgeship. Felony filings per judgeship weighted are 236 percent above the national average.

So you can see, Mr. President, why this burgeoning amount of work in Ari-

zona requires that we fill these positions. We have 19 Indian reservations and 21 tribes which produces a steady stream of U.S. jurisdiction cases which are not found in most other States. Because we are on the border, we have a lot of illegal immigration and drug smuggling cases. And Arizona is one of the fastest growing States in terms of population. It is pretty easy to see how a State such as Arizona can get into a position where it has to fill these positions.

I am very pleased that at this point, just before the Senate concludes its business for the year, we are able to fill these three positions in Arizona, as well as the Illinois position. I am delighted my colleague from Vermont will be urging his colleagues on the Democratic side to support all four nominations. I have certainly done the same on our side of the aisle. I think it will send a very good signal of that very kind of bipartisanship Senator LEAHY was talking about if all of these nominees receive our unanimous support.

I reserve the remainder of whatever time is remaining on my side. Mr. President, it is my understanding that any quorum call time will be attributed to both sides equally; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KYL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator will have to make that request.

Mr. KYL. I ask unanimous consent that any time spent in a quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I rise to make some brief comments.

I was listening, while I was chairing the session, to the very distinguished Senator from Vermont talking about how many appointments and how many nominees should be acted upon. He was very passionate in his appeal to just have a vote; let's just vote up or down. He named nominee after nominee and how many days they have been under consideration.

I was tempted to go back and get the history as to some of the problems we are having with this administration and the fact that, yes, I am guilty of putting holds on judicial nominees and doing the same thing that, back in

1985, Senator BYRD did when Ronald Reagan was President of the United States.

But rather than go into that, I will only say this—I don't want to take much time; I want the Senator from Iowa to have his time—we have acted upon President Clinton's nominees. In fact, it is my understanding that he is only five short of having an all-time record of having nominees being confirmed in a period of time.

Even though the Senator from Vermont was quite eloquent in talking about all of the judicial nominees who were left without final action being taken, either to confirm or not confirm, if we quit right now and didn't confirm these four we are discussing today, at the end of President Clinton's term, that would leave a total of 67 vacancies. It is my understanding that 61 is considered to be a full bench.

Let's say 67 vacancies are there. Back when President Bush was President, when he left office at the end of 1992, there were 107 vacancies.

The bottom line there is the Democrat-controlled Senate at that time was able to stop or was stopping more of the nominations than the Republican-controlled Senate is today.

Seeing that the Senator from Iowa has left the Chamber and no one else is asking for time, I will go ahead at this point and proceed to the history behind this.

Back in 1985, when Ronald Reagan was President of the United States and the Senate was controlled by the Democrats, a lot of the conservative appointments—not just judicial nominations but others—by the President were not acted upon by the Democrat-controlled Senate. Consequently, President Reagan did something he should not have done back in 1985. He started making recess appointments, and he made many recess appointments. The majority leader at that time, the very distinguished Senator from West Virginia, Mr. BYRD, wrote a letter to President Reagan.

In this letter, he reminded him as to what the senatorial prerogative was in accordance with the Constitution. At that time he said: You have violated the Constitution with these recess appointments, and you have done so to avoid our confirmation or lack of confirmation. Therefore, if you have any more recess appointments, I will put a hold on all nominees, not just judicial nominations but all nominations.

Consequently, after a short period of time, President Reagan wrote a letter back to Senator BYRD and said: You are right; it was a violation of the Constitution. And he recited that the Constitution had a provision for recess appointments only in the cases when the appointment occurs during the time we are in recess and that that was not the case when he made his recess appointments.

Fifteen months ago, when we found out that President Clinton was making excessive recess appointments, I found the old letter that BOB BYRD had sent to President Reagan, and I sent that same letter to President Clinton, saying the same thing: If you continue to do recess appointments, we are going to put holds on all your nominees, except, I said, just judicial nominees. Consequently, President Clinton, after a period of 3 or 4 weeks, wrote a letter back and said that he would agree to the same terms Ronald Reagan had agreed to back in 1985. Then when President Clinton violated his word, I put holds on nominations. This was 15 months ago.

As we all know, there was a vote to override my holds after a few months, and that was successful. However, for all judicial nominations that have not gone through the process since President Clinton did have 17 recess appointments during the August recess, I have renewed that hold on all future judicial nominations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, for the benefit of Senators and staff, I initially had 3 hours of time on which to speak about the judicial nominees and, more specifically, the holdup that is happening on the Judiciary Committee with regard to the former attorney general of the State of Iowa, Bonnie J. Campbell, who has been nominated for a seat on the Eighth Circuit Court of Appeals.

In discussing this with several Senators, I can say that it is now my intention to speak for a few minutes and to yield back the remainder of my time. In discussions with our side, I understand there probably will be just voice votes on all of these nominees.

Just for planning purposes—I know how sometimes I get irritated when I don't really know what is happening when some people have a lot of time—I want Senators to know I am going to speak for a few minutes, yield back my time, and then move to the votes on the nominees.

Again, I want to respond a little bit to what my friend from Utah said this morning, the chairman of the Judiciary Committee, Senator HATCH. I am reading from the transcript of this morning's session. Senator HATCH said:

It had always been my intention for the Judiciary Committee to report Ms. Campbell's nomination. However, events conspired to prevent that from happening.

First, during the August recess, as I have explained, the President determined to recess appoint several executive branch nominees over the express objection of numerous Senators.

He did so notwithstanding his agreement to clear such recess appointments with the relevant Senators. . . .

Second, after their August recess, Democrat Senators determined to place holds on

the four nominations we are debating today, even everybody admits—I think everybody admits—that they are important nominations and this arrangement that has been worked out has been fair.

Again, they threatened to shut down the Senate's committee work, going as far as to invoke the 2-hour rule and forcing the postponement of scheduled committee hearings. . . . For these reasons, Bonnie Campbell's nomination has stalled. Ms. Campbell has only the White House and Senate Democrats to blame for the current situation.

I don't know what the Senator from Utah is talking about. Bonnie Campbell had nothing to do with whether the President made recess appointments or not. And the holds that were placed on the four nominations—they were saying, wait a minute, Bonnie Campbell had her hearing 2 months before some of the nominees that we are voting on today. Three of these nominees that will get their vote today were nominated, got their hearing and were reported out of Committee within one week in July of this year. Bonnie Campbell's hearing was in May.

So we are only saying: Why not take those who had their hearings first? Why take up those who had them later? Bonnie Campbell had her hearing, answered questions; they had more written questions that they sent her, and she responded to those. Yet there again, three of the four judges we are voting on here today went through the first three steps of the process within one week.

Ms. Campbell has only the White House and Senate Democrats to blame for the current situation? What is the Senator from Utah talking about? What is to blame are the pure rank politics of the Senate Judiciary Committee and the Senate Republicans for holding up Bonnie Campbell's nomination and keeping it bottled up in committee.

The Senator from Utah knows full well that this Senator from Iowa had every right to exercise his rights as a Senator on the floor, to bottle up a lot of things on this floor after the August recess. I did not do so because I was led to believe that, by acting in good faith, the Senate Judiciary Committee would act on Bonnie Campbell's nomination. Why? Because the Senator from Iowa, Mr. GRASSLEY—and if I am not mistaken, he is the second ranking member on the Judiciary Committee—supports Bonnie Campbell and has stated so publicly. So I figured, well, he is second ranking.

Now, Mr. KYL, the Senator from Arizona, is fourth ranking on the committee, but he gets his nominee through. He was nominated, had a hearing, and was reported out that week. Mr. KYL gets his nominee through.

Well, I figured if I acted in good faith—and I did so by not doing anything and letting the Judiciary Committee go from one week to the next,

one week to the next, and I thought this week they didn't report her out, maybe they'll do it next week, or maybe the next week. Well, now, the time has run out and it is clear to me I was being strung along all this time with false promises that the Judiciary Committee would, indeed, act on Bonnie Campbell's nomination.

So now to say that it is the Senate Democrats who are to blame for the current situation with Bonnie Campbell is utter fabrication, total nonsense. The Senator from Utah knows as well as I do that there is one reason it is being held up, and it is called politics—pure rank politics. Then, again, Senator HATCH says that the reason it has been held up is because President Clinton had some recess appointments, and that we had a hold on these four nominees for a while. Well, why is he singling out one nominee? Why is he targeting Bonnie Campbell? Why is Bonnie Campbell the target? What about all the other judges? Why is he singling her out?

Is it because of her work to prevent domestic violence as the director of the Office of Violence Against Women at the Justice Department? The Senate Republicans have stalled passing the reauthorization of that law just as they have blocked Bonnie Campbell's nomination from getting a vote on the Senate floor.

Bonnie Campbell has done a superb job of focusing on the issue of violence against women, especially domestic violence. The Violence Against Women Act has expired. It expired on the last day of September of this year. This Republican Congress didn't even see fit to take it up and pass it.

So it is no surprise to me that in poll after poll across this country women are saying no to Republican candidates because they see what has been happening here. This Republican Senate is holding up the one person who really knows what violence against women is about, who headed that office and has done a superb job; yet Senate Republicans aren't going to let her come out. How well has she done? Take a look at the House vote on reauthorization. The vote was 415 to 3. Do you really think this bill would have been reauthorized if the person who has headed the office to implement its provisions had done a bad job?

Well, I say to Senate Republicans, you better beware. The women of this country are watching what you do up here on the issues that are important to them. They want the Senate to reauthorize VAWA. They want judges who will enforce that law. Who better to do that than Bonnie Campbell? She is qualified, and no one has come to the Senate floor and said any differently since her hearing.

I can tell you, this Republican Senate that is holding up her nomination and the reauthorization of VAWA will

have only themselves to blame if the women of this country vote overwhelmingly against their party in November. It pains me to say this, but I think that is what it has come down to. If they want to play politics with Bonnie Campbell and Violence Against Women, go right ahead, but it will bite them bad. Real bad.

You may think you are only holding up one person, only one judge, saying, well, she was from Iowa, not of any consequence. I say to my Republican friends, you are seriously mistaken. Bonnie Campbell did an outstanding job as attorney general for the State of Iowa. She was well known to women all over this country as a role model and someone they have looked to for leadership, someone who has brought honor to our State, honor to the legal profession, honor to this administration, and honor to what we are about as a nation in trying to provide more equality for women in this country.

I say to my friends on the Republican side, if you think you are playing smart politics by holding up Bonnie Campbell's nomination, I say to you that you are sadly mistaken.

But I guess it has come down to this. I am told that there is no use even talking about it anymore. They are not going to let Bonnie Campbell's nomination be reported out. I don't know about that. I say it is never over until it's over. And perhaps some cooler heads will prevail on the Republican side. They will see that they are only hurting their own cause. They are only hurting themselves and their candidates who are out there running by holding up Bonnie Campbell's nomination.

It is time we have more diversity on the Federal bench. Only 20 percent of the Federal judiciary are women. Of the 148 circuit judges, only 33 are women. It is time we have more—qualified women on the federal bench.

Last year, a report by the Task Force on Judicial Selection of Citizens for Independent Courts—an independent group—verified that the time to confirm female nominees is now significantly longer than that to confirm male nominees. There is a difference that has defied logical explanation. The fact is—it is true—to confirm female nominees takes a lot longer than men.

We have some men who are being voted on today. We have one man being voted on today who was nominated in July. He was passed out the same week. Bonnie Campbell has waited 215 days since she was nominated.

The standard bearer of the Republican Party this year—Gov. Bush of Texas—said there should be a deadline of 60 days from nomination through the process.

Evidently, the Republicans in the Senate and on the Judiciary Committee are not paying much heed to their standard bearer.

I am sorry to have to disagree with Mr. HATCH. But the White House is not to blame for this, and neither are the Senate Democrats.

Mr. HATCH has an argument with the White House on recess appointments. That is another matter entirely. It has nothing to do with judicial nominees.

Maybe he doesn't like what Mr. Clinton said at a press conference. Maybe Senator HATCH doesn't like a lot of things the President does. But does that give the Senator from Utah the right to hold up a judicial nominee because he doesn't like what the President did on some other matter?

I want to point out again that three out of the four nominees voted on today were nominated, a hearing was held, and they were reported out of the committee in 1 week in July. Yet Bonnie Campbell has been waiting 215 days, and they will not report her out of the committee.

One can only ask again why the Republicans are playing this political charade. I guess they figure, well, if they just hold on, maybe their guy will win and they can move ahead.

But, as I said earlier, I think the Republicans over there ought to be aware of this one. This one is going to bite hard.

Mr. President, I yield whatever time the Senator from Minnesota desires. I yield up to 10 minutes to the Senator from New York, Mr. SCHUMER, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I came to the floor to support my colleague, the Senator from Iowa, and to speak for a couple of minutes about Bonnie Campbell. I believe Bonnie Campbell would be the second woman to serve on the Eighth Circuit Court of Appeals. Dianne Murphy from Minnesota is the first. Bonnie Campbell has done a lot of good work, but most important is her record at the Justice Department in the violence against women office.

I come here to speak about this woman's magnificent work. Bonnie Campbell has probably more than any single individual made the most difference when it came to reducing violence and trying to end some of the violence in families; unfortunately, most of it directed against women and children. About every 13 seconds, a woman is battered in our country. A home should be a safe place. Somewhere between 3 million and 10 million witness this in their homes.

Bonnie Campbell has visited Minnesota. I have seen her speak with very quiet eloquence. I cannot say enough about the magnificent work she has done. As attorney general in Iowa, I think she passed the first anti-stalking law in the State. She is well known in Iowa. She is well known throughout the United States of America. She is a

skillful lawyer. She would be a great judge. She is extremely important when it comes to being a voice for families in this country. She has done probably some of the best work that any individual could possibly do in this incredibly important area of reducing violence in this country. There is way too much violence—especially directed at women and children.

I cannot for the life of me understand why we have been waiting almost 7 months or thereabouts for this nomination to move through the Senate.

Minnesota is covered by the Eighth Circuit Court of Appeals. Dianne Murphy is from the State of Minnesota. She was the first woman to serve on this court. She is a great judge.

Bonnie Campbell would be a great judge. We need her on this court. We need a judge who understands the concerns and circumstances of too many women's lives and too many children's lives in this country. We need a judge such as Bonnie Campbell who has such a distinguished background and such a distinguished career. We need a judge on the Eighth Circuit Court of Appeals like Bonnie Campbell with such a proven record of public service. I can't find anything in her background, I can't find anything in her record, I can't find anything about her which would make her anything other than 100 percent eminently qualified to serve on this court of appeals.

I share in the indignation that my colleague from Iowa has expressed. There is no excuse to hold this nomination for one day longer. I think it is shameful that, in the Senate, really good people who have so much to offer, who could do such good—in this particular case, at the Eighth Circuit of Appeals—find themselves blocked for no good reason.

I heard Senator HARKIN say he thought this was going to come back to "bite." I hope it does. It is true; most of the people in the country are not so directly connected to this process of how we do confirmations of judicial appointments. We have had Senator LEAHY doing yeoman work, and there are other Senators who have spoken. Senator LEAHY provides the leadership. The more people learn about a person of the caliber of Bonnie Campbell—and as a man, I care a lot about how we can reduce this violence in families, how we can reduce the violence in homes—the more people hear about this, the more outraged they will be, and for good reason.

I know it is asking too much, but I want to see a little bit more fairness. I want to see an end to this blocking of good people who could do good work and could help so much. Bonnie Campbell is a perfect example. We shouldn't be delaying this nomination one day. But we are. I just want to express my support for Bonnie Campbell.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Before I get into the substance of my remarks dealing with honoraria for judges, I echo the words of my colleague from Minnesota, Senator WELLSTONE, as well as our leader on the Judiciary Committee, Senator LEAHY, about the holdup in judges. Senator LEAHY has laid it out quite carefully; that is, that we have not appointed as many judges, on a percentage basis, as when Democrats controlled the Senate during the Reagan and Bush years.

I particularly add my voice to those who are asking that Bonnie Campbell be added to the Eighth Circuit.

The reason I rise is not only as a member of the Judiciary Committee, not only as somebody who believes we ought to fill the vacancies in our courts—and I am appreciative that Senator HATCH has worked with me to fill those vacancies in New York. Neither the Second Circuit nor any of the New York district courts have vacancies, and we did manage to fill at least six judgeships this year. I thank the chairman for that. But that doesn't mean the rest of the country should have things unanswered.

I worked with Bonnie Campbell. I was the sponsor in the House of the Violence Against Women Act. It was authored originally by Senator BIDEN and Senator BOXER, when she was a House Member. She carried it between 1990 and 1992. When she was elected to the Senate, she asked me to take the reins, and we did. We passed the law. As somebody greatly interested in the Violence Against Women Act, of bringing that dirty little secret, the amount of violence in our families, out into the sunlight so we could deal with it, I believed very strongly the right person should be appointed to be in charge of the act.

Bonnie Campbell did a fabulous job on an issue of great concern to all Americans. I think it is just unfair to "reward her" by letting her sit there in limbo when she so deserves and could be such a great addition to the Eighth Circuit. I plead with my friend, the Senate majority leader, my friend, the chairman of the Judiciary Committee—who, as I say, has been fair and good to New York on this issue—to bring the names of all four judges before the Senate, or all the judges who are waiting in the wings—there are more than four—but particularly Bonnie Campbell.

On an issue related, as well, of debating a number of nominees to be Federal judges, I want to address an issue that affects the entire Federal judiciary: The ban on honoraria. Under current law, as we all know, Federal judges are not allowed to accept honoraria. That is how it should be. The framers of the Constitution designed article III to keep judges outside of politics and

above influence. Read the Federalist Papers. One of the great debates was that Federal judges, in article III, achieve life appointment.

There was one reason for it: So they would be unfettered, so they would be uninfluenced; they could make their own decisions, knowing that no sanction could be taken against them for decisions they made, and, just as importantly, so the public would know it.

Because the judiciary has neither the power of the sword, as does the executive, nor the power of the purse, as does Congress, it is essential that the judiciary maintain its power—and it has, thank God—for these 211 years since the Constitution was written, through an untainted reputation for integrity and impartiality. The Federal judiciary has had it. It has frustrated us at times. It frustrated Franklin D. Roosevelt in the 1930s. It has frustrated some Members today on issues where we disagree with the majority. There is nothing we can do about it, thank God, because an independent judiciary is vital.

I believe the public, if the surveys I have seen are correct, believes the Federal judiciary is independent—far more, I might say, than State and local judiciaries where there are either elections or appointments of term so that judges believe they have to please either an individual or even the whole electorate to make up their minds.

Nothing could do more to undo the justified reputation so much wanted by the founders and sustained in this Republic as the provision that has been inserted into H.R. 4690 that would allow judges to accept honoraria. The repeal of the ban would create a significant loophole in the Ethics in Government Act of 1978 which bars high-ranking Federal officials of all branches of Government from receiving speaking fees for 11 years. This prohibition has limited real and perceived corruption. It has limited real corruption and, probably much more widespread, perceived corruption. The conflicts of interest among Members of Congress, Federal judges, and senior members of the executive branch have been limited, as well.

I, for one, opposed honoraria for Members of Congress. I don't believe in a standard for the judges and a different one for Members. While honoraria were allowed in the Congress for most of the years I served in the House, I refused to take them. I remember my first speech, right after I was elected. A leading financial institution in New York asked me to speak. I had just been appointed to the Banking Committee, which regulated a lot of their activities. After the speech, they handed me a check. I was sort of surprised; it sort of knocked my socks off. I looked at the check. I said: This is wrong; this is not a check for the "Re-elect Schumer Committee"—which I

would have believed would have been untoward to give me right after a speech anyway—but this is for me. They said: Yes, that is your honorarium.

I felt bad about it, returned the check, and vowed not to take any honoraria in the future.

It is even more important for judges because, as I said, they are not sanctioned to election; they are not supposed to be sanctioned to the whims of either the people or of special interest groups. It would simply lower the standard for the very officials for whom standards should be the highest.

Thousands of U.S. citizens go before Federal judges every year and expect impartial justice. That is why judges have, as I mentioned, life appointments. That is why the rules so assiduously guard against even the appearance of impropriety. And that is why we spend so much time debating the appointment of these judges. We know once they are appointed, that is it; they are in for life.

Lifting the ban will only leave litigants wondering whether the integrity of the judges has been undermined by speaking fees from groups that have a stake, or may have a stake, in the case before them.

The Federal judiciary, it is said, is underpaid. If you believe it, raise the pay; budget the money. But don't, please, allow judges to moonlight as talking heads.

That demeans our independent Federal judiciary. To simply give them leave to forage for speaking engagements is nothing less than an abdication of our responsibility. Moreover, exempting judges from the honorarium ban will give the biggest benefit to those who are in high demand for speaking engagements—likely the most famous, the most high ranking. Presumably inadequate compensation is a problem for all Federal judges, not just those who can garner the largest fees or even who are the most eloquent. We don't hire our judges, we don't appoint our judges, on the basis of eloquence.

Additionally, if judges are underpaid, then they may be more susceptible to influence from outside income—even more reason to maintain the honorarium ban.

In conclusion, the issue boils down to one simple, simple nugget: The faith of the people in their government. We have a great Republic. The more I am on Earth, the more I believe that the Founding Fathers were the greatest collection of practical geniuses history has ever known and the more I believe that our country is, as they put it, a noble experiment. It was when it started, and, God bless America, it still is today.

Honoraria for judges strike a dagger right in the heart of what the Founding Fathers wanted—a totally inde-

pendent judiciary, perceived as independent as well as actually being independent. Inserting this nefarious provision into the thick of an appropriations bill in the dark of night ruins that image. Unfortunately, the sneaky addition of this provision matches the substantive effect of it. It will only enhance the public's perception that those in government should not be trusted.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I understand that the Senators from Iowa and Vermont are ready to yield back their time; is that correct?

Mr. REID. Yes. On behalf of the Democrats who have been allocated time, time is yielded back.

Mr. LOTT. With that in mind, we also yield back all our time on the majority side.

I ask for the yeas and nays on the nomination of James Teilborg.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. This vote will occur momentarily. However, for just a minute, I will suggest the absence of a quorum, and we will be ready to proceed almost immediately. I want Senators to know the vote is about to begin.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, we are ready for the recorded vote.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of James A. Teilborg, of Arizona, to be U.S. District Judge for the District of Arizona? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG) is necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

The PRESIDING OFFICER (Mr. GRAMS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 263 Leg.]

#### YEAS—95

Abraham	Enzi	McConnell
Akaka	Feingold	Mikulski
Allard	Fitzgerald	Miller
Ashcroft	Frist	Moynihan
Baucus	Gorton	Murkowski
Bayh	Graham	Murray
Bennett	Gramm	Nickles
Biden	Grams	Reed
Bingaman	Grassley	Reid
Bond	Hagel	Robb
Boxer	Harkin	Roberts
Breaux	Hatch	Rockefeller
Brownback	Helms	Roth
Bryan	Hollings	Santorum
Bunning	Hutchinson	Sarbanes
Burns	Hutchison	Schumer
Byrd	Inhofe	Sessions
Campbell	Inouye	Shelby
Chafee, L.	Jeffords	Smith (NH)
Cleland	Johnson	Smith (OR)
Cochran	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Stevens
Craig	Kyl	Thomas
Crapo	Landrieu	Thompson
Daschle	Lautenberg	Thurmond
DeWine	Leahy	Torricelli
Dodd	Levin	Voinovich
Domenici	Lott	Warner
Dorgan	Lugar	Wellstone
Durbin	Mack	Wyden
Edwards	McCain	

#### NOT VOTING—5

Feinstein	Kennedy	Lincoln
Gregg	Lieberman	

The nomination was confirmed.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is, Will the Senate advise and consent to the three nominations en bloc?

The nominations, were confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KYL. Mr. President, I rise to thank all of those responsible for helping in the steering of the confirmation of these four nominees—Senator HATCH and Senator LEAHY.

I also would like to make a quick comment about my colleague, Senator GRASSLEY, who observed earlier that even though I rank fifth on the Judiciary Committee and Senator GRASSLEY ranks second, I was able to secure these nominees; whereas, the nominee very important to Senator GRASSLEY and Senator HARKIN has not been considered.

I want to make it clear that seniority had nothing to do with it. Senator GRASSLEY has worked long and hard on behalf of the nominee that Senator HARKIN has spoken about, Bonnie Campbell, former attorney general of Iowa.

I worked very hard on behalf of these nominees. But to make it clear, the nominees from Arizona were President Clinton's nominees. I worked with my colleague in the House, ED PASTOR, a Democrat, in helping to ensure that these nominees could be considered in this session of the Congress; that we could have the Senate Judiciary Committee approve the nominations, and send them to the floor for consideration. It was still laid over over the August recess. Notwithstanding all of that, we were able to get it done.

But in the case of Bonnie Campbell, she is a circuit court nominee. I know Senator GRASSLEY and Senator HARKIN have an agreement that they will support each other's nominees when the other party is in power. In this case, the Democratic President makes a nominee, and Senator HARKIN is supportive and Senator GRASSLEY is also supportive. He certainly has been supportive.

I want the Record to be clear—I am sure Senator HARKIN would concur in this—that Senator GRASSLEY has been a very strong advocate for Bonnie Campbell.

I think the circumstances that permitted us to confirm these other four nominees—one from Illinois and three from Arizona—didn't have anything to do with the seniority on the committee or it wouldn't have been possible for the Arizona judges to have been confirmed by the Senate.

I thank the Chair.

Mr. HARKIN. Mr. President, I respond by saying I was not trying to imply one way or the other that seniority had something to do with who gets out of the Judiciary Committee. My main point was that three of the four nominees we voted on today have been pending a very short time. They were nominated in July, their hearing was in July, and they were reported out of Committee in July—all in the same week. And they were brought to the floor today. Bonnie Campbell has been sitting there for 215 days. She had her hearing in May. Yet they won't report her out of the Judiciary Committee.

This is unfair. It is unfair to her. It is unfair to the women of this country. It is unfair to the court which needs to fill this position. We recognize in Bonnie Campbell a champion, a champion of women, someone who has done an outstanding job in administering the office of violence against women. She is the only one who has held that office since the legislation was passed. The House last week voted 415-3 to reauthorize it. Now we will try to do something in the Senate. I think the women of this country understand the Republican-controlled Judiciary Committee and the Republican-controlled Senate are stopping the Senate from having a vote on Bonnie Campbell for pure political reasons.

I think it is wrong the way they are treating Bonnie Campbell in this nomi-

nation process. I will continue to point that out every day that we remain in session. It is unfair to her. It is unfair to the women of this country to have someone so qualified, someone who has done so much to reduce and prevent violence against women, to have the Senate Judiciary Committee bottle up her name and not even permit it to come on the floor for a vote.

I am still hopeful perhaps they will see the light and permit that to happen, although time is running out. I will take every day we are here to talk about it.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from South Carolina.

Mr. THURMOND. Mr. President, we have heard much debate today about Federal judges. One would think that President Clinton has fared very poorly in the judicial confirmation process, but this is simply not true. He has done quite well with the cooperation of the Republican-controlled Senate.

During the President's first term, the Senate confirmed nearly one-quarter of the entire Federal Judiciary. After today, the Senate will have confirmed 44 percent or 377 Clinton judges.

It is no secret that while I served as Chairman of the Judiciary Committee during the first six years of the Reagan Administration, I made the confirmation of judges a top priority of the Committee. I am proud of our accomplishments during those years.

Yet, with Republican control of the Congress, President Clinton's success rate is really no different. After today, the Senate will have confirmed only five more Article III judges for President Reagan than it has thus far for President Clinton.

Today, the vacancy rate is 7.9 percent, and the Clinton Administration has recognized a 7 percent vacancy rate as virtual full employment for the Judiciary. The vacancy rate at the end of the Bush Administration was 11.5 percent, but there was no talk then about a vacancy crisis. At the end of the Bush Administration, the Congress adjourned without acting on 53 Bush nominations. Today, there are only 38 Clinton nominees pending in Committee.

The Fourth Circuit is a good example of the healthy status of the Judiciary. The court is operating very well and does not need more judges. In fact, today, it is the most efficient circuit. The Fourth Circuit takes less time than any other to decide a case on appeal. The truth is that, due to a lack of cases needing oral argument, the Fourth Circuit has cancelled at least one term of court for each of the past four years, and two terms of court for the past two years.

The Chief Judge of the Fourth Circuit has made clear that additional judges are not needed, and he should

know better than us the needs of his court. There is no good reason to add judges to the most efficient circuit in the nation. Given that a circuit judgeship costs about one million dollars per year for the life of the judge, it would be a waste of taxpayer money to do so.

We also should not be misled by the fact that some vacancies are defined as a "judicial emergency." The term is defined so broadly that, with one exception, all current circuit court judgeships that have been vacant for 18 months are considered "emergencies."

The issue of judgeships in the Federal courts is not just about numbers and statistics. Much more is at stake. Each judgeship is a life-time appointment that yields great power but is basically accountable to no one.

The Senate has a Constitutional duty to review each nominee carefully and deliberately. We take this responsibility very seriously in the Judiciary Committee, as we must. We cannot be a rubber stamp for any Administration. The entire Nation loses when we allow judicial activists or judges who are soft on crime to be confirmed to these life-time positions.

Under Senator HATCH's leadership, the Judiciary Committee has taken a fair and reasoned approach to the confirmation process. As a result, the Clinton Administration has done quite well regarding judicial confirmations.

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#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to Legislative Session.

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#### MORNING BUSINESS

Mr. LOTT. Mr. President, we intended to proceed to an agreement to take up the Interior appropriations conference report, but it looks as if it will be a few minutes before we can work through an agreement that will allow that.

In the meantime, after Senator HARKIN completes his remarks, I will enter into consent for a period for morning business so Senators can speak on issues they desire, but within an hour we hope to get an agreement on how to proceed to the Interior appropriations bill conference report. We need to do that.

In view of the present situation, we will not have any more recorded votes tonight. We will try to get an agreement to kick in the Interior appropriations bill, and that would be considered tomorrow.

I ask unanimous consent the Senate be in a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio.